

**SUBSTITUTE FOR
HOUSE BILL NO. 5143**

(As amended April 25, 2006)

A bill to clarify the rights and duties of self-defense and the defense of others; and to provide for certain remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the ["Dr.
2 Ossian Sweet self-defense act".]

3 Sec. 2. (1) An individual may use deadly force against another
4 individual anywhere he or she has the legal right to be with no
5 duty to retreat if either of the following applies:

6 (a) The individual actually and reasonably believes that the
7 use of deadly force is necessary to prevent the imminent death of
8 or imminent great bodily harm to himself or herself or to another
9 individual.

10 (b) The individual actually and reasonably believes that the

1 use of deadly force is necessary to prevent the imminent sexual
2 assault of himself or herself or of another individual.

3 (2) An individual may use force other than deadly force
4 against another individual anywhere he or she has the legal right
5 to be with no duty to retreat if he or she actually and reasonably
6 believes that the use of that force is necessary to defend himself
7 or herself or another individual from the imminent unlawful use of
8 force by another individual.

9 Sec. 3. (1) Except as provided in subsection (2), it is a
10 rebuttable presumption that an individual who uses force under
11 section 2 has an actual and reasonable fear that imminent death of,
12 sexual assault of, or great bodily harm to himself or herself or
13 another individual will occur if both of the following apply:

14 (a) The individual against whom force is used is in the
15 process of breaking and entering a dwelling or committing home
16 invasion or has broken and entered a dwelling or committed home
17 invasion and is still present in the dwelling, or is unlawfully
18 attempting to remove another individual from a dwelling or occupied
19 vehicle against his or her will.

20 (b) The individual using force knows or has reason to believe
21 the individual is engaging in conduct described in subdivision (a).

22 (2) The presumption set forth in subsection (1) does not apply
23 if any of the following circumstances exist:

24 (a) The individual against whom force is used, including an
25 owner, lessee, or titleholder, has the legal right to be in the
26 dwelling or vehicle and there is not an injunction for protection
27 from domestic violence or a written pretrial supervision order, a

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1 probation order, or a parole order of no contact against that
2 person.

3 (b) The individual removed or being removed from the dwelling
4 or occupied vehicle is a child or grandchild of, or is otherwise in
5 the lawful custody of or under the lawful guardianship of, the
6 individual against whom force is used.

7 (c) The individual who uses force is engaged in an unlawful
8 activity or is using the dwelling or occupied vehicle to further an
9 unlawful activity.

10 (d) The individual against whom force is used is a peace
11 officer who has entered or is attempting to enter a dwelling or
12 vehicle in the performance of his or her official duties and the
13 peace officer identifies himself or herself in accordance with
14 applicable law or the individual using force knows or reasonably
15 should know that the individual entering or attempting to enter the
16 dwelling or vehicle is a peace officer.

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22 (3)] As used in this section:

23 (a) "Dwelling" means a building or conveyance of any kind,
24 including any attached porch, whether the building or conveyance is
25 temporary or permanent, mobile or immobile, that has a roof over
26 it, including a tent, and that is designed to be occupied by
27 people.

1 (b) "Peace officer" means that term as defined in section 215
2 of the Michigan penal code, 1931 PA 328, MCL 750.215.

3 (c) "Vehicle" means a conveyance of any kind, whether or not
4 motorized, that is designed to transport people or property.

5 Enacting section 1. This act takes effect October 1, 2006.

6 Enacting section 2. This act does not take effect unless all
7 of the following bills of the 93rd Legislature are enacted into
8 law:

9 (a) House Bill No. 5142.

10 (b) House Bill No. 5153.

11 (c) House Bill No. 5548.